



United States General Accounting Office
Washington, DC 20548

Decision

Matter of: W&W Logistics

File: B-283998

Date: December 30, 1999

Terence Cusick for the protester.
Walter R. Pierce, Esq., Defense Logistics Agency, for the agency.
Christine F. Davis, Esq., and James Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where the protester allegedly submitted its quote to the agency via facsimile, but the agency denies receipt of the quote and the record contains no proof of receipt, the protester has not established that the agency received its quote.

DECISION

W&W Logistics protests the issuance of a purchase order to Alfred Conhagen Co., under request for quotations (RFQ) No. SPO760-99-Q-1215, issued by the Defense Logistics Agency (DLA), for a quantity of shaft seal assembly kits.

We deny the protest.

The RFQ product item description identified several approved manufacturers of the part, including Conhagen.¹ RFQ at 2. The agency sent the RFQ via facsimile to potential vendors, including the protester and Conhagen. Contracting Officer's Report ¶ 4.b. The agency received five quotes and selected Conhagen based on its

¹ W&W protests that the agency improperly designated Conhagen as an approved source of supply for the solicited part. The basis for this protest was apparent from the face of the solicitation, which identified Conhagen as an approved manufacturer of the part. If W&W disagreed with this determination, it should have protested the matter before quotes were due, not after issuance of the purchase order. Thus, the issue is untimely and will not be considered. See 4 C.F.R. § 21.2(a)(1) (1999); Newgard Indus., Inc., B-257052, Aug. 11, 1994, 94-2 CPD ¶ 70 at 3 n.3.

lowest-priced quote. Id. ¶ 4.c, 4.e. The agency reports that it did not receive a quote from the protester. Id. ¶¶ 4.d, 7.

W&W alleges that it submitted a quote via facsimile transmission at a price lower than Conhagen's. To establish the facsimile transmission, W&W has furnished a copy of its quote, above which appears a facsimile transmission report indicating that the protester established a connection with the agency's facsimile machine. Notwithstanding this evidence, the contracting officer states that the agency has no record of receiving the protester's quote. Id.

Vendors have a duty to see that their quotes reach the designated government office on time, and vendors relying on facsimile transmissions to file documents assume the risk of nonreceipt by the agency. See Comspace Corp., B-277540, Oct. 24, 1997, 97-2 CPD ¶ 111 at 3. Here, the contracting officer denies that the agency received the protester's quote, and the protester's facsimile transmission report is inadequate, by itself, to establish receipt by the agency. This is so because our Office does not regard a transmission record within the protester's control, such as this one, to be definitive evidence of transmission, since such a record can be created or altered to support a protester's contention. See Southern CAD/CAM, B-244745, Nov. 13, 1991, 91-2 CPD ¶ 453 at 3. In addition, even accepting the protester's transmission record as evidence that it actually transmitted its quote, this alone does not establish that the agency received the quote, since DLA denies receipt and there is no other evidence that the agency actually received the quote. See The Microscope Co., B-257015, Aug. 8, 1994, 94-2 CPD ¶ 157 at 2. Accordingly, we find that the protester has not established that the agency received its quote.²

The protest is denied.

Comptroller General
of the United States

² The protester argues that the agency should have contacted W&W to determine if it intended to submit a quote. The protester has cited no authority for this proposition, and we are aware of none.